

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 24/09/1999

ORAL JUDGEMENT

Admit.

At the request of the learned advocates appearing for the parties, the appeals are finally heard today. In view of the fact that both these appeals arise out of a common order passed in one civil suit, both the appeals are heard and disposed of by a common order.

In view of the fact that partners of respondent No.1 firm are having close family relations, with the efforts of the learned advocates, the parties to the litigation have arrived at an amicable settlement. In view of the said settlement it is agreed that:-

1. Chartered Accountants Shri Hemant Vastani and Shri Jitendra Gandhi shall scrutinize and audit books of accounts of respondent No. 1 firm for the period commencing from 1.4.1993 to 31.3.1998 and thereafter they shall determine the amount payable by respondent No.2 to the appellants or amount payable by the appellants to respondent No.2 as on 1.4.1998 as if the business of the firm is to be purchased by respondent No.2 on the basis of value of the assets and liabilities as shown in the books of accounts.
2. The amount so determined shall be paid with interest thereon at the rate of 12% p.a. with effect from 1.4.1998 till the date of payment. The said amount shall be paid in four equal instalments within a period of eight months from the date on which the amount payable is determined by the said Chartered Accountants. The first instalment shall be paid within 2 months from the date on which the amount payable is determined and the remaining three installments shall be paid at the intervals of two months thereafter.
3. It appears that Shri Kishor J. Dhruv, respondent No.2 is doing the business at present and he shall hand over the books of accounts for the relevant period to the Chartered Accountants as soon as possible and preferably within a period of 2 weeks from today. If the appellants have any books of accounts or any other material relating to the accounts for the said period,

they shall also hand over the same to the said chartered accountants. It is hoped that the chartered accountants shall finish their work as soon as possible and preferably before 30.11.1999. The professional fees of the said chartered accountants shall be paid by the partners of the firm in the proportion in which they are sharing profit.

4. The chartered accountants shall submit their audit report along with details about amount payable to or payable by respondent No.2 to the appellants and a copy of the said report shall also be placed on record of Regular Civil Suit No. 1696/98 which pertains to dissolution of the firm in the court of Civil Judge (S.D), Baroda so as to enable the court to pass further orders in pursuance of the said accounts.
5. The parties to the litigation have agreed that they will abide by the accounts and report which may be submitted by the chartered accountants.

The appeals are thus disposed of as allowed and the impugned order dated 9.4.99 passed below Ex. 5 and 30 in Special Civil Suit No. 830 of 1998 is quashed and set aside with no order as to costs.

---